

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

UNITED STATES OF AMERICA

§

§

V.

§

5:13-CR-27(05)

§

KENNETH LAMAR MCCOY

§

**REPORT AND RECOMMENDATION OF
THE UNITED STATES MAGISTRATE JUDGE**

Pursuant to the provisions of 28 U.S.C. § 636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for Assignment of Duties to United States Magistrate Judges, the above-entitled and numbered criminal action was referred to the Honorable Caroline M. Craven for consideration of the Addendum to Plea Agreement.

Defendant Kenneth Lamar McCoy (“Defendant”), Defendant’s attorney Jason Horton, and the United States Attorney for the Eastern District of Texas entered into a binding Plea Agreement FED. R. CIV. P. 11(c)(1)(C) on June 3, 2014 before the undersigned. The Plea Agreement provides the following minimum and maximum penalties the Court can impose:

- a. imprisonment for a period not less than 5 years, and not to exceed 40 years;
- b. a fine not to exceed \$5,000,000, or twice any pecuniary gain to the defendant or loss to the victim(s);
- c. a term of supervised release of not less than 4 years, which may be mandatory under the law and will follow any term of imprisonment. [f the defendant violates the conditions of supervised release, the consequence could be imprisonment for the entire term of supervised release;
- d. a mandatory special assessment of \$100, which must be paid by cashier's check or money order to the United States District Clerk;
- e. forfeiture of property involved or traceable to the criminal offense;
- f. restitution to victims or to the community; and

g. costs of incarceration and supervision.

(Docket Entry # 145 at pg. 2).

After conducting a hearing, the undersigned recommended the District Court accept the Plea Agreement and the Guilty Plea of Defendant, which the District Court adopted June 4, 2014. Defendant and the Government subsequently agreed to an Addendum to Plea Agreement, wherein Defendant agreed to enter a plea of guilty to a lesser included charge of Count 13 of the indictment. The addendum provides the following penalty range:

- a. imprisonment for a period not more than 20 years;
- b. a fine not to exceed \$1,000,000, or twice any pecuniary gain to the defendant or loss to the victim(s);
- c. a term of supervised release of not less than 3 years, which may be mandatory under the law and will follow any term of imprisonment. If the defendant violates the conditions of supervised release, the consequence could be imprisonment for the entire term of supervised release;
- d. a mandatory special assessment of \$100, which must be paid by cashier's check or money order to the United States District Clerk;
- e. forfeiture of property involved or traceable to the criminal offense;
- f. restitution to victims or to the community; and
- g. costs of incarceration and supervision.

(Docket Entry # 240 at pg. 2). The addendum further provides it is the intent of the parties that all provisions of the previously-entered Plea Agreement remain unchanged and given full force and effect.

After Defendant consented to the undersigned's recommendation whether the Addendum to Plea Agreement should be allowed, the Court held a hearing November 24, 2014. After considering

the terms of the addendum as well as hearing arguments of counsel, the Court finds the Addendum to Plea Agreement reasonable and recommends it be accepted by the District Court.

Based on the foregoing, it is

RECOMMENDED that Addendum to Plea Agreement be **ACCEPTED**. It is further

RECOMMENDED that all other provisions of the previously-entered Plea Agreement remain unchanged and that they be given full force and effect.

The parties were informed of the right to file objections to the recommendations as set forth above. The parties waived their objections to the Report and Recommendation.

SIGNED this 24th day of November, 2014.


CAROLINE M. CRAVEN
UNITED STATES MAGISTRATE JUDGE